



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

PO Box 47990 • Olympia, Washington 98504-7990

December 15, 2005

Dear Funeral Director or Embalmer:

Last April, the Legislature passed Senate Bill 5752, an act related to funeral directors and cemeteries. One provision states that a funeral director or embalmer must refrigerate or embalm human remains as soon as they are received. That requirement can be found in RCW 18.39.215(2)(a). The Washington State Board of Health has rules related to the handling of human remains, and one of those rules, WAC 246-490-040, states, "If remains are refrigerated, they shall remain so until final disposition or transport."

Requirements that human remains be embalmed immediately or be kept under constant refrigeration can interfere with established funeral customs. Some religious and cultural traditions—Jewish religious law, for example, and many Native American religious traditions—oppose embalming. When the beliefs of the decedents (or the surviving family members or other people making decisions about the disposition of the remains) prohibit or discourage embalming, refrigeration becomes the only option. But constant refrigeration may prevent the decedents' families and community members from engaging in other customary practices, such as bathing, anointing, dressing, extended praying, or standing guard.

The purpose of both RCW 18.39.215 and WAC 246-490-040 is to protect human health. Neither was intended to interfere with religious or cultural practices that do not pose a direct and immediate threat to human health.

RCW 18.39.215(2)(a) allows, "Upon written authorization of the proper state or local authority, the provisions of this subsection may be waived for a specified period of time." The Department of Licensing and the Washington State Board of Health have decided jointly to waive the immediate embalming or refrigeration requirement under specific circumstances. Effective immediately and continuing through June 30, 2006, entities licensed under Chapter 18.39 RCW may delay refrigeration of human remains for cultural and religious purposes, unless there is a direct and immediate threat to human health that cannot be addressed through barrier precautions or other means.

The Washington State Board of Health has also initiated rule making to revise WAC 246-490-040, and is considering provisions that would allow for religious and cultural exceptions to the

constant refrigeration requirement. It appears that concerns about implementing the refrigeration requirements of SB 5752 can be addressed through this rule making process. Until rule making is complete, please remember that it is not the intent of the Washington State Board of Health that this section should infringe on cultural or religious practices. If you have any concerns about how to implement this rule in the interim, please contact Craig McLaughlin, Executive Director, Washington State Board of Health, PO Box 47990, Olympia, WA 98504-7990, 360-236-4106, craig.mclaughlin@doh.wa.gov.

Questions about licensing and enforcement under Chapter 18.39 RCW should be directed to Department of Licensing, Funeral and Cemetery Licensing Office, PO Box 9012, Olympia, WA 98507-9012, 360-664-1551, funerals@dol.wa.gov.

Thank you for your efforts to protect human health while also honoring the cultural and religious diversity of the people of Washington State.

Sincerely,

Dr. Kim Marie Thorburn, MD, MPH

Dr. Kim Marie Thorburn, Chair
Washington State Board of Health

Liz Luce

Liz Luce, Director
Department of Licensing

cc: The Honorable Christine O. Gregoire
The Honorable Margarita Prentice, Washington State Senate
Mr. Craig Bill, Governor's Office of Indian Affairs
Mr. Antonio Ginatta, Executive Policy Office
Ms. Mary Selecky, Secretary of Health
Washington State Board of Health Members